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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,463	09/25/2003	Terry J. Logan	NVI 0016 PA	4567
23368	7590	01/16/2008	EXAMINER	
DINSMORE & SHOHL LLP			MARCANTONI, PAUL D	
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET				
SUITE 1300			ART UNIT	PAPER NUMBER
DAYTON, OH 45402-2023			1793	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10669463	9/25/03	LOGAN ET AL.	NVI 0016 PA

EXAMINER

Paul Marcantoni

ART UNIT	PAPER
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1793 20080111

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Commissioner for Patents

Newly submitted and amended claim 1 is now directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The originally claimed invention of claim 1 was directed to "a method of heating a kiln" used to make cement clinker (the method of making cement clinker was an intended use of the kiln itself). Applicants have amended claim 1 to now be "a method of producing (or making) cement clinker" which is certainly a different invention. The applicants 12/31/07 amendment and response have not been entered and is NON-RESPONSIVE. Since applicant has received an action on the merits for the *originally presented invention*, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 1 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

It is noted that the timely submission under 37 CFR 1.129(a) filed on 12/31/07 is not fully responsive to the prior Office action for the reasons above. Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply which means a responsive amendment. That would encompass simply amending claim 1 back to its original preamble form of "A method of heating a kiln used in the manufacture of producing cement clinker". (No more than that is necessary). This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

Inquiries regarding this communication may be made to Paul Marcantoni at 571-272-1373.

Paul Marcantoni
Primary Examiner
Art Unit: 1793